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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
NIELS MACHE, ET AL.	: EXAMINER: LAZARO, D.
SERIAL NO: 09/727,182	:
FILED: NOVEMBER 30, 2000	: GROUP ART UNIT: 2455
FOR: INSTANT MESSAGING	:

APPEAL BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

This is an appeal from the decision of the Examiner dated March 17, 2009, which finally rejected Claims 1-21 in the above-identified patent application. A Notice of Appeal was filed along with a Supplemental Amendment on July 15, 2009.

I. REAL PARTY-IN-INTEREST

The real part-in-interest is Sony Deutschland GmbH.

II. RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative, and the assignees are aware of no appeals which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-21 have been finally rejected and form the basis for this appeal. Claim 22 is canceled without prejudice or disclaimer. Appendix VIII includes a clean copy of appealed Claims 1-21.

IV. STATUS OF AMENDMENTS

An amendment after final rejection was filed July 15, 2009 and was entered by the Advisory Action dated August 25, 2009.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 is directed to a system for transmitting messages over a multimedia network from a sending client to a target client. The messages include target client information. (paragraph 77 of the publication of the specification) The system (Figure 1) includes a plurality of message gateways (Gateways 3, 3', 3'') and a message broker (Instant Message Brokers 1,1'). Each message gateway is configured to receive and transmit over at least one dedicated transfer medium. (paragraph 45) The message broker is connected to the message gateways and is provided with a client database. (paragraph 45) A first message gateway receives a message from a sending client over a first transfer medium and transmits the message or information extracted thereof to the message broker. (paragraphs 52 and 53) The message includes meta information and content. (paragraphs 65 and 71) The message broker automatically selects an appropriate second transfer medium depending on content of the client database and the meta information of the message without processing the content of the message. (paragraph 140). The message is sent to the target client via a second message gateway configured to transmit over the second transfer medium selected by the message broker. (paragraph 136).

Independent Claim 12 is directed to a message broker unit for a distributed multimedia system. The message broker includes hardware unit designed to autonomously select an appropriate transfer medium out of a plurality of transfer media for messages received from a sending client and to be transferred to a target client. (paragraph 136) The message includes meta information and content. (paragraph 77) The message broker unit is connected to a client database and the transfer medium selection is performed depending on target client information included in the meta information of message and content of the client database without processing the content of the message. (paragraph 140).

Independent Claim 15 is directed to a method for sending messages over a multimedia network from a sending client to a target client. The messages include target client information. (paragraph 77) The method includes transmitting the message in a first format from the sending client to a message broker over a first transfer medium (paragraphs 52 and 53), the message including meta information and content (paragraphs 65 and 71); encrypting the message with a receiver key that is valid only for an intended receiver and a given message (paragraph 141); and transmitting the message in a second format to the target client over a second transfer medium. (paragraph 136) The second transfer medium can be identical to the first transfer medium. (paragraph 21) The message broker selects an appropriate second transfer medium out of a plurality of transfer media depending on content of a client database connected to the message broker and the target client information included in the meta information of message without processing the content of the message. (paragraph 140)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are:

(a) whether Claims 1-18 and 20-22 are anticipated under 35 U.S.C. §102(b) by Vaudreuil (U.S. Patent No. 5,740,230); and

(b) whether Claim 19 is unpatentable under 35 U.S.C. §103(a) over Vaudreuil in view of Yokomizo (U.S. Patent No. 6,163,796).

VII. ARGUMENTS

A. Claims 1-18 and 20-22 are not anticipated by Vaudreuil

Claim 1 recites in part:

a plurality of message gateways, each message gateway being configured to receive and transmit over at least one dedicated transfer medium, and
a message broker connected to the message gateways and being provided with a client database,
wherein a first message gateway receives a message from a sending client over a first transfer medium and transmits the message or information extracted thereof to the message broker, the message including meta information and content, ***the message broker automatically selects an appropriate second transfer medium depending on content of the client database and the meta information of the message without processing the content of the message***, and the message is sent to the target client via a second message gateway configured to transmit over the second transfer medium selected by the message broker.

Thus, in the claimed invention, the message broker automatically selects an appropriate second transfer medium depending on content of the client database and the meta information of the message ***without processing the content of the message***. This allows maximum throughput to be realized because the meta information is much more compact than the content, as discussed at paragraph 140 of the specification.

The outstanding Office Action cited hubs 12, 14, and 16 of Vaudreuil as describing “a message broker” as recited in Claim 1.¹ The outstanding Advisory Action cited column 26, line 30 to column 27, line 26 of Vaudreuil as describing the above highlighted feature of the

¹See the outstanding Office Action at page 3, lines 8-11.

claimed message broker. However, column 26, line 30 to column 27, line 26 of Vaudreuil only describes what the overall system does, not necessarily what hubs 12, 14, and 16 do. In fact, column 15, lines 13-19 of Vaudreuil describe that the message router 72 of the hubs of Vaudreuil determines the next destination for each message based **only** on information from the system database 147, not any meta information from the message. Further, column 19, lines 49-54 (and column 26, line 30 to column 27, line 26) of Vaudreuil describe that the **recipient** selects the preferred media for receiving messages, not the sender. It is respectfully noted that for a proper anticipation rejection, "The **identical** invention must be shown **in as complete detail** as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (Emphasis added.) See MPEP §2131.

In the present case, Vaudreuil fails to describe that **hubs 12, 14, and 16** automatically select an appropriate second transfer medium depending on content of a client database **and** meta information of a message **without processing content of the message** in as complete a detail as recited in Claim 1. Accordingly, it is respectfully submitted that Claim 1 (and Claims 2-11 dependent therefrom) is not anticipated by Vaudreuil and is patentable thereover.

Independent Claims 12 and 15 recite similar elements to Claim 1. It is respectfully submitted that Claims 12 and 15 (and Claims 13, 14, and 16-21 dependent therefrom) are patentable over Vaudreuil for at least the reasons discussed above with respect to Claim 1.

In addition, Claim 15 further recites in part "encrypting the message with a receiver key that is valid **only** for an intended receiver **and** a given message." The outstanding Advisory Action cited column 28, line 63-67 of Vaudreuil as describing this feature. However, this portion of Vaudreuil describes that a public key cryptographic system is used to encrypt messages. This requires that the public key be created, **maintained**, and accessed, as described at column 29, lines 14-20 of Vaudreuil. Thus, as Vaudreuil clearly describes

that public keys are used **multiple** times, **not** only for a given message, as they need to be maintained. Thus, Vaudreuil not only fails to describe unique receiver keys **valid only for an intended receiver and a given message**, but in fact teaches to the contrary. It is respectfully submitted that Vaudreuil does not in any way describe a device that encrypts messages with unique receiver keys **valid only for a given message**. Accordingly, Vaudreuil does not teach or suggest “a message broker” as defined in Claim 15. Consequently, it is respectfully submitted that Claim 15 (and Claims 16-21 dependent therefrom) is not anticipated by Vaudreuil and is patentable thereover.

B. Claim 19 is patentable over Vaudreuil in view of Yokomizo

With regard to the rejection of Claim 19 as unpatentable over Vaudreuil in view of Yokomizo, it is noted that Claim 19 is dependent from Claim 15, and thus is believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Yokomizo does not cure any of the above-noted deficiencies of Vaudreuil. Accordingly, it is respectfully submitted that Claim 19 is patentable over Vaudreuil in view of Yokomizo.

CONCLUSION

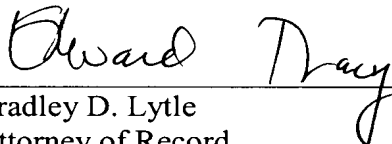
It is respectfully requested that the outstanding rejections be REVERSED.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

Claim 1: A system for transmitting messages over a multimedia network from a sending client to a target client, the messages comprising target client information, the system comprising:

a plurality of message gateways, each message gateway being configured to receive and transmit over at least one dedicated transfer medium, and

a message broker connected to the message gateways and being provided with a client database,

wherein a first message gateway receives a message from a sending client over a first transfer medium and transmits the message or information extracted thereof to the message broker, the message including meta information and content, the message broker automatically selects an appropriate second transfer medium depending on content of the client database and the meta information of the message without processing the content of the message, and the message is sent to the target client via a second message gateway configured to transmit over the second transfer medium selected by the message broker.

Claim 2: The system according to claim 1, wherein a common internal message format is used for the communication respectively between the message broker and the message gateways.

Claim 3: The system according to claim 1, wherein the message gateways are distributed over the network.

Claim 4: The system according to claim 1, wherein the transfer media comprise analog and digital transfer media.

Claim 5: The system according to claim 1, further comprising:

at least one message processor provided between the first and the second message gateway for further processing the content of the message to be transmitted.

Claim 6: The system according to claim 1, wherein the client database comprises addresses of clients, client preferences and/or characteristics of the transfer network to the corresponding target client.

Claim 7: The system according to claim 1, wherein the message broker is designed to furthermore perform processing control and/or security processing.

Claim 8: The system according to claim 1, wherein the message broker is designed to furthermore perform accounting and/or billing.

Claim 9: The system according to claim 1, wherein a plurality of message brokers is provided.

Claim 10: The system according to claim 9, wherein at least one message broker is connected with a client database with reduced capacity.

Claim 11: The system according to claim 1, wherein the messages respectively contain a non-granted encrypted and a granted non-encrypted part.

Claim 12: A message broker unit for a distributed multimedia system, comprising:
a hardware unit designed to autonomously select an appropriate transfer medium out

of a plurality of transfer media for messages received from a sending client and to be transferred to a target client, the message including meta information and content, wherein the message broker unit is connected to a client database and the transfer medium selection is performed depending on target client information included in the meta information of message and content of the client database without processing the content of the message.

Claim 13: The message broker unit according to claim 12, wherein the transfer medium selection is performed depending on the target network, the message type and/or client preferences contained in the client database.

Claim 14: The message broker according to claim 12, wherein the messages respectively contain a non-granted encrypted and a granted non-encrypted part.

Claim 15: A method for sending messages over a multimedia network from a sending client to a target client, the messages comprising target client information, the method comprising the following steps:

transmitting the message in a first format from the sending client to a message broker over a first transfer medium, the message including meta information and content,

encrypting the message with a receiver key that is valid only for an intended receiver and a given message; and

transmitting the message in a second format to the target client over a second transfer medium, wherein the second transfer medium can be identical to the first transfer medium,

wherein the message broker selects an appropriate second transfer medium out of a plurality of transfer media depending on content of a client database connected to the message broker and the target client information included in the meta information of message

without processing the content of the message.

Claim 16: The method according to claim 15, wherein the transmission of the message from the sending client to the target client is performed essentially in real-time.

Claim 17: The method according to claim 15, wherein a conversion from the first transfer medium to the second transfer medium is performed depending on the target network, the message type and/or client preferences contained in the client database.

Claim 18: The method according to claim 15, wherein before the transmission to the target client, the content of the message is further processed by digital signing, encryption, watermarking and/or language translation.

Claim 19: The method according to claim 15, wherein a lifetime is attributed to each message and the message is only transmitted until the expiration of the lifetime.

Claim 20: The method according to claim 15, wherein the messages respectively contain a non-granted encrypted and a granted non-encrypted part.

Claim 21: A computer readable medium including computer executable instructions, wherein the instructions, when executed by a processor, cause the processor to perform a method according to claim 15.

Claim 22 (Canceled).

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.